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United States Statutes Concerni
the Registration of Trade-Mark

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U.S. Laws, statutes, etc. Trade-mark law

UNITED STATES PATENT OFFICE

UNITED STATES STATUTES CONCERNING THE REGISTRATION OF TRADE-MARKS

WITH

THE RULES OF THE PATENT OFFICE RELATING THERETO

REVISED JULY 26, 1920

WASHINGTON
GOVERNMENT PRINTING OFFICE
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First edition, April 1, 1905.

First reprint, April 20, 1905, under which rules 17, 30, 34, and 62, and Forms 2, 3, 4, 5, 6, 7, and 8 were amended and an appendix was added containing Circular of the Treasury Department relating to trade-marks, and an extract from the "Red Cross" act.

First revised edition, December 1, 1905, under which sections (*a*) and (*e*) of rule 11 were canceled and the remaining sections relettered to correspond therewith; rule 17 was amended; original rule 44 was canceled and a new rule 44 substituted therefor; new rules 45 to 48, inclusive, were inserted, and the numbering of original rules 45 to 69, inclusive, was changed to correspond therewith.

Second revised edition, August 1, 1906, under which section 1 of the act of February 20, 1905, was amended in accordance with the act of May 4, 1906, and the act of May 4, 1906, was added; rule 17 was canceled and new rules 17 and 18 were substituted therefor; rule 18 was amended and renumbered as rule 19; rules 19 and 20 were renumbered as rules 20 and 21; rule 21 was renumbered as rule 22, and sections (*b*) and (*c*) were amended; rule 22 was renumbered as rule 23; rule 23 was amended and renumbered as rule 24; rules 24 to 28, inclusive, were renumbered as rules 25 to 29, inclusive; a new rule 30 was inserted; rule 29 was amended and renumbered as rule 31; rule 30 was renumbered as rule 32; rule 31 was amended and renumbered as rule 33; rules 32 to 65, inclusive, were renumbered as rules 34 to 67, inclusive; rule 66 was canceled and a new rule 68 was substituted therefor; and rules 67 to 73, inclusive, were renumbered as rules 69 to 75, inclusive.

Third revised edition, April 26, 1909, under which the act of February 20, 1905, is amended as provided by the acts of March 2, 1907, and February 18, 1909; rules 11 and 14 are canceled and new rules 11 and 14 substituted therefor; rules 16 and 19 are amended; rule 22 is canceled and new rule 22 substituted therefor; rules 31, 34, and 40 are amended; rules 47 and 48 are canceled and new rules 47 and 48 substituted therefor; rules 49, 51, and 56 are amended; rules 69 and 70 are canceled and new rules 69 and 70 substituted therefor; and rule 71 is amended.

Fourth revised edition, November 1, 1911, under which the act of February 20, 1905, is amended as provided by the act of February 18, 1911; section 5 (*b*) is amended; rules 20 to 32 are amended; rules 45a to 45d are added; rule 56 is amended; rules 57a and 57d are added; Form 8 is amended; section 4 of the act to incorporate the American National Red Cross is amended and section 8 is added; the Circular of the Treasury Department relating to trade-marks is amended.

Fifth revised edition, March 1, 1913, under which the act of February 20, 1905, is amended as provided by the act of January 8, 1913, section 5 (*b*) is amended.

Reprint of October 1, 1916, in which rule 49 has been amended, the affidavits in Forms 12 and 13 have been changed, and Form 14 added.

Sixth revised edition, July 26, 1920, under which the rules and forms were amended in consideration of the act of March 19, 1920, as follows: Rules 16, 17, 19, 20, 22, 27, 32, 33, 38, 39, 40, 47, 51, 58, 59, 60, 62, 68, 70, and 73 were amended; the lost paragraph of Rule 56 was canceled and Rules 56a and 56b were added; Forms 1a, 1b, 1c, 3a, and 8a were added, and Forms 1 and 8 were amended.

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REGISTRATION OF TRADE-MARKS.

TRADE-MARK LAWS OF THE UNITED STATES.

ACT OF FEBRUARY 20, 1905 (AS AMENDED).

AN ACT To authorize the registration of trade-marks used in commerce with foreign nations or among the several States or with Indian tribes, and to protect the same.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the owner of a trade-mark used in commerce with foreign nations, or among the several States, or with Indian tribes, provided such owner shall be domiciled within the territory of the United States, or resides in or is located in any foreign country which, by treaty, convention, or law, affords similar privileges to the citizens of the United States, may obtain registration for such trade-mark by complying with the following requirements: First, by filing in the Patent Office an application therefor, in writing, addressed to the Commissioner of Patents, signed by the applicant, specifying his name, domicile, location, and citizenship; the class of merchandise and the particular description of goods comprised in such class to which the trade-mark is appropriated; a statement of the mode in which the same is applied and affixed to goods, and the length of time during which the trade-mark has been used; a description of the trade-mark itself shall be included, if desired by the applicant or required by the commissioner, provided such description is of a character to meet the approval of the commissioner. With this statement shall be filed a drawing of the trade-mark, signed by the applicant, or his attorney, and such number of specimens of the trade-mark as actually used as may be required by the Commissioner of Patents. Second, by paying into the Treasury of the United States the sum of ten dollars, and otherwise complying with the requirements of this act and such regulations as may be prescribed by the Commissioner of Patents.

As amended by act of Feb. 18, 1909.

SEC. 2. That the application prescribed in the foregoing section, in order to create any right whatever in favor of the party filing it, must be accompanied by a written declaration verified by the applicant, or by a member of the firm or an officer of the corporation or association applying, to the effect that the applicant believes himself or the firm, corporation, or association in whose behalf he makes the application to be the owner of the trade-mark sought to be registered, and that no other person, firm, corporation, or association, to the best of the applicant's knowledge and belief, has the right to use such trade-mark in the United States, either in the identical form or in such near resemblance thereto as might be calculated to deceive; that such trade-mark is used in commerce among the several States, or with foreign nations, or with Indian tribes, and that the description and drawing presented truly represent the trade-mark

As amended by act of Feb. 18, 1909.

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sought to be registered. If the applicant resides or is located in a foreign country, the statement required shall, in addition to the foregoing, set forth that the trade-mark has been registered by the applicant, or that an application for the registration thereof has been filed by him in the foreign country in which he resides or is located, and shall give the date of such registration, or the application therefor, as the case may be, except that in the application in such cases it shall not be necessary to state that the mark has been used in commerce with the United States or among the States thereof. The verification required by this section may be made before any person within the United States authorized by law to administer oaths, or, when the applicant resides in a foreign country, before any minister, chargé d'affaires, consul, or commercial agent holding commission under the Government of the United States, or before any notary public, judge, or magistrate having an official seal and authorized to administer oaths in the foreign country in which the applicant may be whose authority shall be proved by a certificate of a diplomatic or consular officer of the United States.

SEC. 3. That every applicant for registration of a trade-mark, or for renewal of registration of a trade-mark, who is not domiciled within the United States, shall, before the issuance of the certificate of registration, as hereinafter provided for, designate, by a notice in writing, filed in the Patent Office, some person residing within the United States on whom process or notice of proceedings affecting the right of ownership of the trade-mark of which such applicant may claim to be the owner, brought under the provisions of this act or under other laws of the United States, may be served, with the same force and effect as if served upon the applicant or registrant in person. For the purposes of this act it shall be deemed sufficient to serve such notice upon such applicant, registrant, or representative by leaving a copy of such process or notice addressed to him at the last address of which the Commissioner of Patents has been notified.

SEC. 4. That an application for registration of a trade-mark filed in this country by any person who has previously regularly filed in any foreign country which, by treaty, convention, or law, affords similar privileges to citizens of the United States an application for registration of the same trade-mark shall be accorded the same force and effect as would be accorded to the same application if filed in this country on the date on which application for registration of the same trade-mark was first filed in such foreign country: *Provided*, That such application is filed in this country within four months from the date on which the application was first filed in such foreign country: *And provided*, That certificate of registration shall not be issued for any mark for registration of which application has been filed by an applicant located in a foreign country until such mark has been actually registered by the applicant in the country in which he is located.

SEC. 5. That no mark by which the goods of the owner of the mark may be distinguished from other goods of the same class shall be refused registration as a trade-mark on account of the nature of such mark unless such mark—

(*a*) Consists of or comprises immoral or scandalous matter.

(*b*) Consists of or comprises the flag or coat of arms or other insignia of the United States or any simulation thereof, or of any State or municipality or of any foreign nation, or of any design or

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picture that has been or may hereafter be adopted by any fraternal society as its emblem, *or of any name, distinguishing mark, character, emblem, colors, flag, or banner adopted by any institution, organization, club, or society which was incorporated in any State in the United States prior to the date of the adoption and use by the applicant: Provided, That said name, distinguishing mark, character, emblem, colors, flag, or banner was adopted and publicly used by said institution, organization, club, or society prior to the date of adoption and use by the applicant: Provided,* That trade-marks which are identical with a registered or known trade-mark owned and in use by another and appropriated to merchandise of the same descriptive properties, or which so nearly resemble a registered or known trade-mark owned and in use by another and appropriated to merchandise of the same descriptive properties as to be likely to cause confusion or mistake in the mind of the public or to decieve purchasers shall not be registered: *Provided,* That no mark which consists marely in the name of an individual, firm, corporation, or association not written, printed, impressed, or woven in some particular or distinctive manner, or in association with a portrait of the individual, or merely in words or devices which are descriptive of the goods with which they are used, or of the character or quality of such goods, or merely a geographical name or term, shall be registered under the terms of this Act: *Provided further,* That no portrait of a living individual may be registered as a trade-mark except by the consent of such individual, evidenced by an instrument in writing: *And provided further,* That nothing herein shall prevent the registration of any mark used by the applicant or his predecessors, or by those from whom title to the mark is derived, in commerce with foreign nations or among the several States or with Indian tribes which was in actual and exclusive use as a trade-mark of the applicant, or his predecessors from whom he derived title, for ten years next preceding February twentieth, nineteen hundred and five: *Provided further,* That nothing herein shall prevent the registration of a trade-mark otherwise registrable because of its being the name of the applicant or a portion thereof.

As amended by act of Jan. 8, 1913.

SEC. 6. That on the filing of an application for registration of a trade-mark which complies with the requirements of this act, and the payment of the fees herein provided for, the Commissioner of Patents shall cause an examination thereof to be made; and if on such examination it shall appear that the applicant is entitled to have his trade-mark registered under the provisions of this act, the commissioner shall cause the mark to be published at least once in the Official Gazette of the Patent Office. Any person who believes he would be damaged by the registration of a mark may oppose the same by filing notice of opposition, stating the grounds therefor, in the Patent Office within thirty days after the publication of the mark sought to be registered, which said notice of opposition shall be verified by the person filing the same before one of the officers mentioned in section two of this act. An opposition may be filed by a duly authorized attorney, but such opposition shall be null and void unless verified by the opposer within a reasonable time after such filing. If no notice of opposition is filed within said time, the commissioner shall issue a certificate of registration therefor, as hereinafter provided for. If on examination

As amended by act of Mar. 2, 1907.

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an application is refused, the commissioner shall notify the applicant, giving him his reasons therefor.

SEC. 7. That in all cases where notice of opposition has been filed the Commissioner of Patents shall notify the applicant thereof and the grounds therefor.

Whenever application is made for the registration of a trade-mark which is substantially identical with a trade-mark appropriated to goods of the same descriptive properties, for which a certificate of registration has been previously issued to another, or for registration of which another has previously made application, or which so nearly resembles such trade-mark, or a known trade-mark owned and used by another, as, in the opinion of the commissioner, to be likely to be mistaken therefor by the public, he may declare that an interference exists as to such trade-mark, and in every case of interference or opposition to registration he shall direct the examiner in charge of interferences to determine the question of the right of registration to such trade-mark, and of the sufficiency of objections to registration, in such manner and upon such notice to those interested as the commissioner may by rules prescribe.

The commissioner may refuse to register the mark against the registration of which objection is filed, or may refuse to register both of two interfering marks, or may register the mark, as a trade-mark, for the person first to adopt and use the mark, if otherwise entitled to register the same, unless an appeal is taken, as hereinafter provided for, from his decision, by a party interested in the proceeding, within such time (not less than twenty days) as the commissioner may prescribe.

SEC. 8. That every applicant for the registration of a trade-mark, or for the renewal of the registration of a trade-mark, which application is refused, or a party to an interference against whom a decision has been rendered, or a party who has filed a notice of opposition as to a trade-mark, may appeal from the decision of the examiner in charge of trade-marks, or the examiner in charge of interferences, as the case may be, to the commissioner in person, having once paid the fee for such appeal.

SEC. 9. That if an applicant for registration of a trade-mark, or a party to an interference as to a trade-mark, or a party who has filed opposition to the registration of a trade-mark, or party to an application for the cancelation of the registration of a trade-mark, is dissatisfied with the decision of the Commissioner of Patents, he may appeal to the court of appeals of the District of Columbia, on complying with the conditions required in case of an appeal from the decision of the commissioner by an applicant for patent, or a party to an interference as to an invention, and the same rules of practice and procedure shall govern in every stage of such proceedings, as far as the same may be applicable.

SEC. 10. That every registered trade-mark and every mark for the registration of which application has been made, together with the application for registration of the same, shall be assignable in connection with the good will of the business in which the mark is used. Such assignment must be by an instrument in writing and duly acknowledged according to the laws of the country or State in which the same is executed; any such assignment shall be void as against any subsequent purchaser for a valuable consideration, with-

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out notice, unless it is recorded in the Patent Office within three months from date thereof. The commissioner shall keep a record of such assignments.

SEC. 11. That certificates of registration of trade-marks shall be issued in the name of the United States of America, under the seal of the Patent Office, and shall be signed by the Commissioner of Patents, and a record thereof, together with printed copies of the drawing and statement of the applicant, shall be kept in books for that purpose. The certificate shall state the date on which the application for registration was received in the Patent Office. Certificates of registration of trade-marks may be issued to the assignee of the applicant, but the assignment must first be entered of record in the Patent Office.

Written or printed copies of any records, books, papers, or drawings relating to trade-marks belonging to the Patent Office, and of certificates of registration, authenticated by the seal of the Patent Office and certified by the commissioner thereof, shall be evidence in all cases wherein the originals could be evidence; and any person making application therefor and paying the fee required by law shall have certified copies thereof.

SEC. 12. That a certificate of registration shall remain in force for twenty years, except that in the case of trade-marks previously registered in a foreign country such certificates shall cease to be in force on the day on which the trade-mark ceases to be protected in such foreign country, and shall in no case remain in force more than twenty years, unless renewed. Certificates of registration may be from time to time renewed for like periods on payment of the renewal fees required by this act, upon request by the registrant, his legal representatives, or transferees of record in the Patent Office, and such request may be made at any time not more than six months prior to the expiration of the period for which the certificates of registration were issued or renewed. Certificates of registration in force at the date at which this act takes effect shall remain in force for the period for which they were issued, but shall be renewable on the same conditions and for the same periods as certificates issued under the provisions of this act, and when so renewed shall have the same force and effect as certificates issued under this act.

SEC. 13. That whenever any person shall deem himself injured by the registration of a trade-mark in the Patent Office he may at any time apply to the Commissioner of Patents to cancel the registration thereof. The commissioner shall refer such application to the examiner in charge of interferences, who is empowered to hear and determine this question and who shall give notice thereof to the registrant. If it appear after a hearing before the examiner that the registrant was not entitled to the use of the mark at the date of his application for registration thereof, or that the mark is not used by the registrant, or has been abandoned, and the examiner shall so decide, the commissioner shall cancel the registration. Appeal may be taken to the commissioner in person from the decision of examiner of interferences.

SEC. 14. That the following shall be the rates for trade-mark fees:

On filing each original application for registration of a trade-mark, ten dollars: *Provided*, That an application for registration of a trade-mark pending at the date of the passage of this act, and on which certificate of registration shall not have issued at such date,

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may, at the option of the applicant, be proceeded with and registered under the provisions of this act without the payment of further fee.

On filing each application for renewal of the registration of a trade-mark, ten dollars.

On filing notice of opposition to the registration of a trade-mark, ten dollars.

On an appeal from the examiner in charge of trade-marks to the Commissioner of Patents, fifteen dollars.

On an appeal from the decision of the examiner in charge of interferences, awarding ownership of a trade-mark or canceling the registration of a trade-mark, to the Commissioner of Patents, fifteen dollars.

For certified and uncertified copies of certificates of registration and other papers, and for recording transfers and other papers, the same fees as required by law for such copies of patents and for recording assignments and other papers relating to patents.

SEC. 15. That sections forty-nine hundred and thirty-five and forty-nine hundred and thirty-six of the Revised Statutes, relating to the payment of patent fees and to the repayment of fees paid by mistake, are hereby made applicable to trade-mark fees.

SEC. 16. That the registration of a trade-mark under the provisions of this act shall be prima facie evidence of ownership. Any person who shall, without the consent of the owner thereof, reproduce, counterfeit, copy, or colorably imitate any such trade-mark and affix the same to merchandise of substantially the same descriptive properties as those set forth in the registration, or to labels, signs, prints, packages, wrappers, or receptacles intended to be used upon or in connection with the sale of merchandise of substantially the same descriptive properties as those set forth in such registration, and shall use, or shall have used, such reproduction, counterfeit, copy, or colorable imitation in commerce among the several States, or with a foreign nation, or with the Indian tribes, shall be liable to an action for damages therefor at the suit of the owner thereof; and whenever in any such action a verdict is rendered for the plaintiff, the court may enter judgment therein for any sum above the amount found by the verdict as the actual damages, according to the circumstances of the case, not exceeding three times the amount of such verdict, together with the costs.

SEC. 17. That the circuit and territorial courts of the United States and the supreme court of the District of Columbia shall have original jurisdiction, and the circuit courts of appeal of the United States and the court of appeals of the District of Columbia shall have appellate jurisdiction of all suits at law or in equity respecting trade-marks registered in accordance with the provisions of this act, arising under the present act, without regard to the amount in controversy.

SEC. 18. That writs of certiorari may be granted by the Supreme Court of the United States for the review of cases arising under this act in the same manner as provided for patent cases by the act creating the circuit court of appeals.

SEC. 19. That the several courts vested with jurisdiction of cases arising under the present act shall have power to grant injunctions, according to the course and principles of equity, to prevent the violation of any right of the owner of a trade-mark registered under this act, on such terms as the court may deem reasonable; and upon a

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decree being rendered in any such case for wrongful use of a trade-mark the complainant shall be entitled to recover, in addition to the profits to be accounted for by the defendant, the damages the complainant has sustained thereby, and the court shall assess the same or cause the same to be assessed under its direction. The court shall have the same power to increase such damages, in its discretion, as is given by section sixteen of this act for increasing damages found by verdict in actions of law; and in assessing profits the plaintiff shall be required to prove defendant's sales only; defendant must prove all elements of cost which are claimed.

SEC. 20. That in any case involving the right to a trade-mark registered in accordance with the provisions of this act, in which the verdict has been found for the plaintiff, or an injunction issued, the court may order that all labels, signs, prints, packages, wrappers, or receptacles in the possession of the defendant, bearing the trade-mark of the plaintiff or complainant, or any reproduction, counterfeit, copy, or colorable imitation thereof, shall be delivered up and destroyed. Any injunction that may be granted upon hearing, after notice to the defendant, to prevent the violation of any right of the owner of a trade-mark registered in accordance with the provisions of this act, by any circuit court of the United States, or by a judge thereof, may be served on the parties against whom such injunction may be granted anywhere in the United States where they may be found, and shall be operative, and may be enforced by proceedings to punish for contempt, or otherwise, by the court by which such injunction was granted, or by any other circuit court, or judge thereof, in the United States, or by the Supreme Court of the District of Columbia, or a judge thereof. The said courts, or judges thereof, shall have jurisdiction to enforce said injunction, as herein provided, as fully as if the injunction had been granted by the circuit court in which it is sought to be enforced. The clerk of the court or judge granting the injunction shall, when required to do so by the court before which application to enforce said injunction is made, transfer without delay to said court a certified copy of all the papers on which the said injunction was granted that are on file in his office.

SEC. 21. That no action or suit shall be maintained under the provisions of this act in any case when the trade-mark is used in unlawful business, or upon any article injurious in itself, or which mark has been used with the design of deceiving the public in the purchase of merchandise, or has been abandoned, or upon any certificate of registration fraudulently obtained.

SEC. 22. That whenever there are interfering registered trade-marks, any person interested in any one of them may have relief against the interfering registrant, and all persons interested under him, by suit in equity against the said registrant; and the court, on notice to adverse parties and other due proceedings had according to the course of equity, may adjudge and declare either of the registrations void in whole or in part according to the interest of the parties in the trade-mark, and may order the certificate of registration to be delivered up to the Commissioner of Patents for cancellation.

SEC. 23. That nothing in this act shall prevent, lessen, impeach, or avoid any remedy at law or in equity which any party aggrieved by any wrongful use of any trade-mark might have had if the provisions of this act had not been passed.

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SEC. 24. That all applications for registration pending in the office of the Commissioner of Patents at the time of the passage of this act may be amended with a view to bringing them, and the certificate issued upon such applications, under its provisions, and the prosecution of such applications may be proceeded with under the provisions of this act.

SEC. 25. That any person who shall procure registration of a trade-mark, or entry thereof, in the office of the Commissioner of Patents by a false or fraudulent declaration or representation, oral or in writing, or by any false means, shall be liable to pay any damages sustained in consequence thereof to the injured party, to be recovered by an action on the case.

SEC. 26. That the Commissioner of Patents is authorized to make rules and regulations, not inconsistent with law, for the conduct of proceedings in reference to the registration of trade-marks provided for by this act.

SEC. 27. That no article of imported merchandise which shall copy or simulate the name of any domestic manufacture, or manufacturer or trader, or of any manufacturer or trader located in any foreign country which, by treaty, convention, or law affords similar privileges to citizens of the United States, or which shall copy or simulate a trade-mark registered in accordance with the provisions of this act or shall bear a name or mark calculated to induce the public to believe that the article is manufactured in the United States, or that it is manufactured in any foreign country or locality other than the country or locality in which it is in fact manufactured, shall be admitted to entry at any customhouse of the United States; and, in order to aid the officers of the customs in enforcing this prohibition, any domestic manufacturer or trader, and any foreign manufacturer or trader, who is entitled under the provisions of a treaty, convention, declaration, or agreement between the United States and any foreign country to the advantages afforded by law to citizens of the United States in respect to trade-marks and commercial names, may require his name and residence, and the name of the locality in which his goods are manufactured, and a copy of the certificate of registration of his trade-mark, issued in accordance with the provisions of this act, to be recorded in books which shall be kept for this purpose in the Department of the Treasury, under such regulations as the Secretary of the Treasury shall prescribe, and may furnish to the department facsimiles of his name, the name of the locality in which his goods are manufactured, or of his registered trade-mark; and thereupon the Secretary of the Treasury shall cause one or more copies of the same to be transmitted to each collector or other proper officer of customs.

SEC. 28. That it shall be the duty of the registrant to give notice to the public that a trade-mark is registered, either by affixing thereon the words "Registered in U. S. Patent Office," or abbreviated thus, "Reg. U. S. Pat. Off.," or when, from the character or size of the trade-mark, or from its manner of attachment to the article to which it is appropriated, this can not be done, then by affixing a label containing a like notice to the package or receptacle wherein the article or articles are inclosed; and in any suit for infringement by a party failing so to give notice of registration no damages shall be recovered,

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except on proof that the defendant was duly notified of infringement and continued the same after such notice.

SEC. 29. That in construing this act the following rules must be observed, except where the contrary intent is plainly apparent from the context thereof: The United States includes and embraces all territory which is under the jurisdiction and control of the United States. The word "States" includes and embraces the District of Columbia, the Territories of the United States, and such other territory as shall be under the jurisdiction and control of the United States. The terms "person" and "owner," and any other word or term used to designate the applicant or other entitled to a benefit or privilege or rendered liable under the provisions of this act, include a firm, corporation, or association as well as a natural person. The term "applicant" and "registrant" embrace the successors and assigns of such applicant or registrant. The term "trade-mark" includes any mark which is entitled to registration under the terms of this act, and whether registered or not, and a trade-mark shall be deemed to be "affixed" to an article when it is placed in any manner in or upon either the article itself or the receptacle or package or upon the envelope or other thing in, by, or with which the goods are packed or inclosed or otherwise prepared for sale or distribution.

SEC. 30. That this act shall be in force and take effect April first, nineteen hundred and five. All acts and parts of acts inconsistent with this act are hereby repealed except so far as the same may apply to certificates of registration issued under the act of Congress approved March third, eighteen hundred and eighty-one, entitled "An act to authorize the registration of trade-marks and protect the same," or under the act approved August fifth, eighteen hundred and eighty-two, entitled "An act relating to the registration of trade-marks."

Approved, February 20, 1905.

ACT OF MAY 4, 1906.

AN ACT To amend the laws of the United States relating to the registration of trade-marks.

* * * * * * *

SEC. 2. That the Commissioner of Patents shall establish classes of merchandise for the purpose of trade-mark registration, and shall determine the particular descriptions of goods comprised in each class. On a single application for registration of a trade-mark the trade-mark may be registered at the option of the applicant for any or all goods upon which the mark has actually been used comprised in a single class of merchandise, provided the particular descriptions of goods be stated.

SEC. 3. That any owner of a trade-mark who shall have a manufacturing establishment within the territory of the United States shall be accorded, so far as the registration and protection of trade-marks used on the products of such establishment are concerned, the same rights and privileges that are accorded to owners of trade-marks domiciled within the territory of the United States by the act entitled "An act to authorize the registration of trade-marks used in commerce with foreign nations or among the several States or with Indian tribes, and to protect the same," approved February twentieth, nineteen hundred and five.

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SEC. 4. That this act shall take effect July first, nineteen hundred and six.

Approved, May 4, 1906.

ACT TO INCORPORATE THE AMERICAN NATIONAL RED CROSS, APPROVED JANUARY 5, 1905 (AS AMENDED JUNE 23, 1910.)

SEC. 4. That from and after the passage of this act it shall be unlawful for any person within the jurisdiction of the United States to falsely or fraudulently hold himself out as or represent or pretend himself to be a member of or an agent for the American National Red Cross for the purpose of soliciting, collecting, or receiving money or material; or for any person to wear or display the sign of the Red Cross or any insignia colored in imitation thereof for the fraudulent purpose of inducing the belief that he is a member of or an agent for the American National Red Cross. It shall be unlawful for any person, corporation, or association other than the American National Red Cross and its duly authorized employees and agents and the Army and Navy sanitary and hospital authorities of the United States, for the purpose of trade or as an advertisement, to induce the sale of any article whatsoever or for any business or charitable purpose to use within the territory of the United States of America and its exterior possessions the emblem of the Greek Red Cross on a white ground, or any sign or insignia made or colored in imitation thereof, or of the words "Red Cross" or "Geneva Cross" or any combination of these words: *Provided, however*, That no person, corporation or association that actually used or whose assignor actually used the said emblem, sign, insignia, or words for any lawful purpose prior to January fifth, nineteen hundred and five, shall be deemed forbidden by this act to continue the use thereof for the same purpose and for the same class of goods. If any person violates the provision of this section he shall be deemed guilty of a misdemeanor, and upon conviction in any Federal court shall be liable to a fine of not less than one or more than five hundred dollars, or imprisonment for a term not exceeding one year, or both, for each and every offense.

* * * * * * *

SEC. 8. That the endowment fund of the American National Red Cross shall be kept and invested under the management and control of a board of nine trustees, who shall be elected from time to time by the incorporators and their successors under such regulations regarding terms and tenure of office, accountability, and expense as said incorporators and successors shall prescribe.

Approved, June 23, 1910.

ACT OF MARCH 19, 1920.

ACT TO GIVE EFFECT TO CERTAIN PROVISIONS OF THE CONVENTION FOR THE PROTECTION OF TRADE-MARKS AND COMMERCIAL NAMES, MADE AND SIGNED IN THE CITY OF BUENOS AIRES, IN THE ARGENTINE REPUBLIC, AUGUST 20, 1910, AND FOR OTHER PURPOSES.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of Patents shall keep a register of (a) all marks communicated to him by the international bureaus provided for by the convention for the

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protection of trade-marks and commercial names, made and signed in the city of Buenos Aires, in the Argentine Republic, August 20, 1910, in connection with which the fee of $50 gold for the international registration established by article 2 of that convention has been paid, which register shall show a facsimile of the mark; the name and residence of the registrant; the number, date, and place of the first registration of the mark, including the date on which application for such registration was filed and the term of such registration, a list of goods to which the mark is applied as shown by the registration in the country of origin, and such other data as may be useful concerning the mark.

(b) All other marks not registerable under the Act of February 20, 1905, as amended, except those specified in paragraphs (a) and (b) of section 5 of that Act, but which have been in bona fide use for not less than one year in interstate or foreign commerce, or commerce with the Indian tribes by the proprietor thereof, upon or in connection with any goods of such proprietor upon which a fee of $10 has been paid to the Commissioner of Patents and such formalities as required by the said commissioner have been complied with: *Provided*, That trade-marks which are identical with a known trade-mark owned and used in interstate and foreign commerce, or commerce with the Indian tribes by another and appropriated to merchandise of the same descriptive properties as to be likely to cause confusion or mistake in the mind of the public or to deceive purchasers, shall not be placed on this register.

SEC. 2. That whenever any person shall deem himself injured by the inclusion of a trade-mark on this register, he may at any time apply to the Commissioner of Patents to cancel the registration thereof. The Commissioner shall refer such application to the examiner in charge of interferences, who is empowered to hear and determine this question, and who shall give notice thereof to the registrant. If it appear after a hearing before the examiner that the registrant was not entitled to the exclusive use of the mark at or since the date of his application for registration thereof, or that the mark is not used by the registrants or has been abandoned, and the examiner shall so decide, the commissioner shall cancel the registration. Appeal may be taken to the commissioner in person from the decision of the examiner in charge of interferences.

SEC. 3. That any person who shall willfully and with intent to deceive, affix, apply, or annex, or use in connection with any article or articles of merchandise, or any container or containers of the same, a false designation of origin, including words or other symbols, tending to falsely identify the origin of the merchandise, and shall then cause such merchandise to enter into interstate or foreign commerce, and any person who shall knowingly cause or procure the same to be transported in interstate or foreign commerce or commerce with Indian tribes, or shall knowingly deliver the same to any carrier to be so transported, shall be liable to an action at law for damages and to an action in equity for an injunction, at the suit of any person, firm, or corporation doing business in the locality falsely indicated as that of origin, or in the region in which said locality is situated, or at the suit of any association of such persons, firms, or corporations.

SEC. 4. That any person who shall without the consent of the owner thereof reproduce, counterfeit, copy, or colorably imitate any trade-

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mark on the register provided by this Act, and shall affix the same to merchandise of substantially the same descriptive properties as those set forth in the registration, or to labels, signs, prints, packages, wrappers, or receptacles intended to be used upon or in connection with the sale of merchandise of substantially the same descriptive properties as those set forth in such registration, and shall use, or shall have used, such reproduction, counterfeit, copy, or colorable imitation in commerce among the several States, or with a foreign nation, or with the Indian tribes, shall be liable to an action for damages therefor at the suit of the owner thereof; and whenever in any such action a verdict is rendered for the plaintiff the court may enter judgment therein for any sum above the amount found by the verdict as the actual damages, according to the circumstances of the case, not exceeding three times the amount of such verdict, together with the costs.

SEC. 5. That it shall be the duty of a registrant under this Act of a mark falling within class (a) of section 1, to comply with the law of the country in which his original registration took place, in respect to giving notice to the public that the trade-mark is registered, in connection with the use of such trade-mark in the United States of America, and in any suit for infringement by a party failing to do this, no damages shall be recovered except on proof that the defendant was duly notified of the infringement and continued the same after such notice.

SEC. 6. That the provisions of sections 15, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27, and 28 (as to class (b) marks only) of the Act approved February 20, 1905, entitled "An Act to authorize the registration of trade-marks used in commerce with foreign nations or among the several States, or with Indian tribes, and to protect the same," as amended to date, and the provisions of section 2 of the Act entitled "An Act to amend the laws of the United States relating to the registration of trade-marks," approved May 4, 1906, are hereby made applicable to marks placed on the register provided for by section 1 of this Act.

SEC. 7. That written or printed copies of any records, books, papers, or drawings belonging to the Patent Office and relating to trade-marks placed on the register provided for by this Act, when authenticated by the seal of the Patent Office and certified by the commissioner thereof, shall be evidence in all cases wherein the originals could be evidence, and any person making application therefor and paying the fee required by law shall have certified copies thereof.

SEC. 8. That the same fees shall be required for certified and uncertified copies of papers and for records, transfers, and other papers, under this Act, as are required by law for such copies of patents and for recording assignments and other papers relating to patents.

On filing an appeal under this Act to the Commissioner of Patents from the decision of the examiner in charge of interferences, awarding ownership of a trade-mark, canceling or refusing to cancel the registration of a trade-mark, a fee of $15 shall be payable.

SEC. 9. That section 5 of the Trade-Mark Act of February 20, 1905, being Thirty-third Statutes at Large, page 725, as amended by Thirty-fourth Statutes at Large, page 1251, Thirty-sixth Statutes at Large, page 918, Thirty-seventh Statutes at Large, page 649, is hereby

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amended by adding the following words thereto: "And if any person or corporation shall have so registered a mark upon the ground of said use for ten years preceding February 20, 1905, as to certain articles or classes of articles to which said mark shall have been applied for said period, and shall have thereafter and subsequently extended his business so as to include other articles not manufactured by said applicant for ten years next preceding February 20, 1905, nothing herein shall prevent the registration of said trade-mark in the additional classes to which said new additional articles manufactured by said person or corporation shall apply, after said trade-mark has been used on said article in interstate or foreign commerce or with the Indian tribes for at least one year provided another person or corporation has not adopted and used previously to its adoption and use by the proposed registrant, and for more than one year such trade-mark or one so similar as to be likely to deceive in such additional class or classes."

Approved, March 19, 1920.

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RULES GOVERNING THE REGISTRATION OF TRADE-MARKS UNDER THE TRADE-MARK ACTS.

UNITED STATES PATENT OFFICE,
Washington, D. C., July 19, 1920.

The following rules, designed to be in accordance with the provisions of the acts approved February 20, 1905, May 4, 1906, March 2, 1907, February 18, 1909, February 18, 1911, January 8, 1913, and March 19, 1920, for the registration of trade-marks, are published for gratuitous distribution.

Applicants for registration and their attorneys are advised that their business will be facilitated by the observance of the forms.

JAMES T. NEWTON,
Commissioner of Patents.

CORRESPONDENCE.

1. All business with the office should be transacted in writing. Unless by the consent of all parties, the action of the office will be based exclusively on the written record. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

2. Applicants and attorneys will be required to conduct their business with the office with decorum and courtesy. Papers presented in violation of this requirement will be returned; but all such papers will first be submitted to the commissioner, and only be returned by his direct order.

3 All letters should be addressed to "The Commissioner of Patents"; and all remittances by money order, check, or draft should be to his order.

4. A separate letter should, in every case, be written in relation to each distinct subject of inquiry or application. Complaints against the examiner in charge of trade-marks, assignments for record, fees, and orders for copies or abstracts must be sent to the office in separate letters.

5. Letters relating to pending applications should refer to the name of the applicant, the serial number of the application, and the date of filing. Letters relating to registered trade-marks should refer to the name of the registrant, the number and date of the certificate, and the merchandise to which the trade-mark is applied.

6. The personal attendance of applicants at the Patent Office is unnecessary. Their business can be transacted by correspondence.

7. When an attorney shall have filed his power of attorney, duly executed, the correspondence will be held with him.

8. A double correspondence with an applicant and his attorney, or with two attorneys, can not, generally, be allowed.

9. The office can not undertake to respond to inquiries propounded with a view to ascertain whether certain trade-marks have been registered, or, if so, to whom, or for what goods; nor can it give advice as

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to the nature and extent of the protection afforded by the law, or act as its expounder, except as questions may arise upon applications regularly filed.

10. Express, freight, postage, and all other charges on matter sent to the Patent Office must be prepaid in full; otherwise it will not be received.

ATTORNEYS.

11. The owner of a trade-mark may prosecute his own application for registration of such trade-mark, but he is advised, unless familiar with such matters, to employ a competent attorney. The office can not aid in the selection of an attorney.

A register of attorneys is kept in the Patent Office, on which is entered the names of all persons entitled to represent applicants before the Patent Office in the prosecution of applications for patents, and any registered attorney will be recognized in the prosecution of applications for registration of trade-marks.

Registration of an attorney merely for the prosecution of an application for registration of a trade-mark will not be required, but in the absence of registration recognition will be limited to each case. The commissioner reserves the right to decline to recognize any attorney, agent, or other person authorized to be recognized by the preceding provisions of this rule.

12. Before any attorney, original or associate, will be allowed to inspect papers or take action of any kind, his power of attorney must be filed. General powers given by a principal to an associate can not be considered. In each application the written authorization must be filed. A power of attorney purporting to have been given to a firm or copartnership will not be recognized, either in favor of the firm or of any of its members, unless all its members shall be named in such power of attorney.

13. Substitution or association may be made by an attorney upon the written authorization of his principal; but such authorization will not empower the second attorney to appoint a third.

14. Powers of attorney may be revoked at any stage in the proceedings of a case upon application to and approval by the commissioner; and, when so revoked, the office will communicate directly with the applicant, or such other attorney as he may appoint. A power of attorney appointing a second principal attorney will not be entered unless such power of attorney specifically revokes that given the principal attorney of record (rule 8). An attorney will be promptly notified by the docket clerk of the revocation of his power of attorney.

15. For gross misconduct the commissioner may refuse to recognize any person as an attorney, either generally or in any particular case; but the reasons for such refusal will be duly recorded and be subject to the approval of the Secretary of the Interior.

WHO MAY REGISTER A TRADE-MARK.

16. A trade-mark may be registered under the act of February 20, 1905, as amended, by any person, firm, corporation, or association domiciled within the territory of the United States, or residing in or located in any foreign country which, by treaty, convention, or law, affords similar privileges to the citizens of the United States, and who is the owner of

Act of Feb. 20, 1905, sec. 1.

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such trade-mark, and uses the same in commerce with foreign nations, or among the several States, or with Indian tribes, upon payment of the fee required by law and other due proceedings had. (See rules 17 and 20.)

17. Except as provided by section 3 of the act of May 4, 1906, no trade-mark will be registered under the act of February 20, 1905, as amended, to an applicant residing or located in a foreign country unless such country, by treaty, convention, or law, affords similar privileges to the citizens of the United States, nor unless the trade-mark has been registered by the applicant in the foreign country in which he resides or is located, nor until such applicant has filed in this office a certified copy of the certificate of registration of his trade-mark in the country where he resides or is located. In such cases it is not necessary to state in the application that the trade-mark has been used in commerce with the United States or among the several States thereof.

Act of Feb. 20, 1905, secs. 1, 2, and 4. Act of May 4, 1906, sec. 3.

18. The owner of a trade-mark residing or located in a foreign country and who shall have a manufacturing establishment within the territory of the United States may register a trade-mark used on the products of such establishment upon complying with the provisions of the act of February 20, 1905, as prescribed for owners of trade-marks domiciled within the territory of the United States.

Act of May 4, 1906, sec. 3.

WHAT MAY BE REGISTERED AS A TRADE-MARK.

19. No trade-mark will be registered to an owner domiciled within the territory of the United States unless it shall be made to appear that the same is used as such by said owner in commerce among the several States, or between the United States and some foreign nation or Indian tribe; no trade-mark except as provided by section 3 of the act of May 4, 1906, and the act of March 19, 1920, will be registered to an owner residing in or located in a foreign country unless said country, by treaty, convention, or law, affords similar privileges to the citizens of the United States; no trade-mark will be registered which consists of or comprises immoral or scandalous matter, or which consists of or comprises the flag or coat of arms or other insignia of the United States, or any simulation thereof, or of any State or municipality, or of any foreign nation, or which consists of or comprises any design or picture that has been adopted by any fraternal society as its emblem, unless it shall be shown to the satisfaction of the Commissioner of Patents that the mark was adopted and used as a trade-mark by the applicant or applicant's predecessors, from whom title is derived, at a date prior to the date of its adoption by such fraternal society as its emblem; and no mark will be registered which is identical with a registered or known trade-mark owned and in use by another, and appropriated to merchandise of the same descriptive properties, or which so nearly resembles a registered or known trade-mark owned and in use by another, and appropriated to merchandise of the same descriptive properties as to be likely to cause confusion or mistake in the mind of the public, or to deceive purchasers, or, under the act of February 20, 1905, which consists

Act of Feb. 20, 1905, secs. 1, 5, and 21. Act of Feb. 18, 1909, sec. 1. Act of Mar. 19, 1920.

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merely in the name of an individual, firm, corporation, or association, not written, printed, impressed, or woven in some particular or distinctive manner or in association with a portrait of the individual, or merely in words or devices which are descriptive of the goods with which they are used, or of the character or quality of such goods, or merely a geographical name or term; no portrait of a living individual will be registered as a trade-mark, except by consent of such individual evidence by an instrument in writing; and no trade-mark will be registered which is used in unlawful business, or upon any article injurious in itself, or which has been used with the design of deceiving the public in the purchase of merchandise, or which has been abandoned. No trade-mark will be registered under section 1 (*b*) act of March 19, 1920, which is registrable under the act of February 20, 1905, as amended, or which has not been in *bona fide* use for one year in international or interstate commerce or commerce with Indian tribes.

20. Any mark, used in commerce with foreign nations or among the several States or with Indian tribes, may be registered if it has been in actual and exclusive use as a trade-mark of the applicant, or his predecessors from whom he derived title, for 10 years next preceding February 20, 1905. Or if it has been registered under the 10 years proviso for one class of goods, it may be registered for other classes, as provided in section 9 of the act of March 19, 1920.

Act of Feb. 20, 1905, sec. 5.
Act of Feb. 18, 1911.
Act of Mar. 19, 1920, sec. 9.

THE APPLICATION.

21. An application for the registration of a trade-mark must be made to the Commissioner of Patents and must be signed by the applicant.

Act of Feb. 20, 1905, sec. 1.

22. A complete application comprises:

(*a*) A petition, requesting registration, and if under act of March 19, 1920, so specifying, signed by the applicant. (See Forms 1, 1a, and 1b.) An application for registration under the act of February 20, 1905, as amended, may be changed to an application for registration under section 1 (*b*) of the act approved March 19, 1920, and no additional fee will be required but the petition must be correspondingly amended. (See Form 1a.)

Act of Feb. 20, 1905, sec. 1.
Act of Feb. 18, 1909, sec. 1.
Act of Mar. 19, 1920.

(*b*) A statement specifying the name, domicile, location, and citizenship of the party applying, and if the applicant be a corporation or association, the State or nation under the laws of which organized; the class of merchandise (according to the official classification), and the particular description of goods comprised in such class upon which the trade-mark has actually been used; a statement of the mode in which the same is applied and affixed to the goods, and the length of time during which the trade-mark has been used upon the goods specified. A description of the trade-mark itself shall be included, if desired by the applicant or required by the commissioner, provided such description is of a character to meet the approval of the commissioner. (See sec. 29 of the act of Feb. 20, 1905, and Forms 2, 4, 6, and 10.)

(*c*) A declaration complying with section 2 of the act of February 20, 1905, as amended by the act of February 18, 1909, or sections 1

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(*b*) or 9 of the act of March 19, 1920. (See Forms 3, 3a, 5, 7, 8, 8a, 9, and 11.)

(*d*) A drawing of the trade-mark, signed by the applicant, or his attorney, which shall be a facsimile of the same as actually used upon the goods. (See rules 36 and 37 and specimen drawing.)

(*e*) Five specimens (*or facsimiles, when, from the mode of applying or affixing the trade-mark to the goods, specimens can not be furnished*) of the trade-mark as actually used upon the goods.

(*f*) A fee of $10.

23. The petition, the statement, and the declaration must be in the English language and written on one side of the paper only.

24. The name of the applicant will appear in the certificate of registration precisely as it is signed to the statement of the application, and, therefore, the signature to the statement must be the correct signature of the applicant, and the name of the applicant wherever it appears in the papers of the application will be made to agree with the name as signed to the statement.

25. No information will be given, without authority of the applicant, respecting the filing of an application for the registration of a trade-mark by any person, or the subject matter thereof, unless it shall, in the opinion of the commissioner, be necessary to the proper conduct of business before the office.

26. All applications for registration pending in the Patent Office at the time of the passage of the act of February 20, 1905, may be amended with a view to bringing them and the certificates issued under such applications under the provisions of said act, and the prosecution of such applications may be proceeded with under its provisions without the payment of further fee. When such an application is amended to bring it under the act of February 20, 1905, it will be given a serial number and a date of filing under said act.

Act of Feb. 20, 1905, secs. 14 and 24.

A trade-mark registered under the act of March 3, 1881, may be registered under the act of February 20, 1905, but the application for such registration will be subject to examination in the same manner as other applications filed under said act of February 20, 1905.

27. An application for registration of a trade-mark under the act of February 20, 1905, as amended, filed in this country by any person who has previously regularly filed in any foreign country which, by treaty, convention, or law, affords similar privileges to the citizens of the United States an application for registration of the same trade-mark, shall be accorded the same force and effect as would be accorded to the same application if filed in this country on the date on which application for registration of the same trade-mark was first filed in such foreign country: *Provided*, That such application be filed in this country within four months from the date on which the application was first filed in such foreign country.

Act of Feb. 20, 1905, sec. 4.

28. Every applicant for registration of a trade-mark, or for renewal of registration of a trade-mark, who is not domiciled within the United States, shall, before the issuance of the certificate of registration, designate, by a notice in writing, filed in the Patent Office, some person residing within the United States on whom process or notice of proceedings affecting the right of ownership of the trade-mark of which such applicant may claim

Act of Feb. 20, 1905, sec. 3.

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to be the owner may be served. This notice shall be indorsed upon the file wrapper of the application.

29. In proceedings relating to an application, or to a registration under the act of February 20, 1905, it shall be deemed sufficient to serve notice upon the applicant, registrant, or representative, by leaving a copy of the process or notice of proceedings addressed to him at the last address of which the Commissioner of Patents has been notified.

Act of Feb. 20, 1905, sec. 3.

30. A trade-mark may, at the option of the applicant, be registered on a single application, for any or all goods comprised in a single class of merchandise, provided the particular description of goods be stated, and provided that the mark has been actually used upon all of the goods specified. (See classification of merchandise, p. 41.)

Act of May 4, 1906, sec. 2.

31. The application must be accompanied by a written declaration, verified by the applicant, or by a member of the firm, or by an officer of the corporation or association applying, to the effect that he believes himself, or the firm, corporation, or association in whose behalf he makes the declaration, to be the owner of the trade-mark sought to be registered, and that no other person, firm, corporation, or association, to the best of his knowledge and belief, has the right to use the trade-mark in the United States, either in the identical form or any such near resemblance thereto as might be calculated to deceive; that such trade-mark is used in commerce among the several States, or with foreign nations, or with Indian tribes; that the description and drawing truly represent the trade-mark sought to be registered; that the specimens (*or facsimiles*) show the mark as actually used upon the goods; and that the facts set forth in the statement are true. (See rule 17 and Forms 3, 3a, 5, 7, 8, 8a, 9, and 11.)

Act of Feb. 20, 1905, sec. 2.
Act of Feb. 18, 1909, sec. 2.

32. Where application is made under section 5 of the act of February 20, 1905, on the ground that the mark has been in actual and exclusive use as a trade-mark by the applicant, or his predecessors from whom he derived title, for 10 years next preceding February 20, 1905, the applicant shall, in addition to the requirements of section 2 of said act, make oath to such actual use of the mark as a trade-mark by himself or his predecessors, or by those from whom title to the same is derived, for the period specified, and that, to the best of his knowledge and belief, such use has been exclusive. (See Form 8.) Or if the application is made under section 9 of the act of March 19, 1920, the same must be correspondingly changed. (See Form 3a.)

Act of Feb. 18, 1911.
Act of Mar. 19, 1920, sec. 9.

33. If the applicant for registration under the act of February 20, 1905, as amended, resides or is located in a foreign country, the declaration required, unless the application be presented under the provisions of section 3 of the act of May 4, 1906, shall also set forth that the trade-mark has been registered by the applicant, or that an application for the registration thereof has been filed by him in the foreign country in which he resides or is located, and shall give the date of such registration, or of the application therefor, as the case may be. In such cases it shall not be necessary to state that the mark has been used in commerce with the United States or among the States thereof.

Act of Feb. 20, 1905, sec. 2.

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If the application be presented under the provisions of section 3 of the act of May 4, 1906, the declaration, in addition to the requirements of rule 31, must state that the applicant has a manufacturing establishment within the territory of the United States and that the goods upon which the trade-mark is used are the product of such establishment.

Act of May 4, 1906, sec. 3.

34. The declaration may be made before any person within the United States authorized by law to administer oaths, or, when the applicant resides in a foreign country, before any minister, chargé d'affaires, consul, or commercial agent holding commission under the Government of the United States, or before any notary public, judge, or magistrate having an official seal and authorized to administer oaths in the foreign country in which the applicant may be, whose authority shall be proved by the certificate of a diplomatic or consular officer of the United States, the declaration being attested in all cases, in this and other countries, by the proper official seal of the officer before whom the same is made, except that no acknowledgment may be taken before any attorney appearing in the case. When the person before whom the declaration is made is not provided with a seal, his official character shall be established by competent evidence, as by a certificate of a clerk of a court of record, or other proper officer having a seal.

Act of Feb. 20, 1905, sec. 2.

35. Amendment of the declaration will not be permitted. If that filed with the application be faulty or defective, a substitute declaration must be filed.

DRAWING.

36. (1) The drawing must be made upon pure white paper of a thickness corresponding to two-sheet Bristol board. The surface of the paper must be calendered and smooth. India ink alone must be used, to secure perfectly black and solid lines.

(2) The size of a sheet on which a drawing is made must be exactly 10 by 15 inches. One inch from its edges a single marginal line is to be drawn, leaving the "sight" precisely 8 by 13 inches. Within this margin all work and signatures must be included. One of the shorter sides of the sheet is regarded as its top, and, measuring downwardly from the marginal line, a space of not less than 1½ inches is to be left blank for the heading of title, name, number, and date. (See specimen drawing.)

(3) All drawings must be made with the pen only. Every line and letter, signatures included, must be absolutely black. This direction applies to all lines, however fine, and to shading. All lines must be clean, sharp, and solid, and they must not be too fine or crowded. Surface shading, when used, should be open.

(4) The name of the proprietor of the trade-mark, signed by himself or by his attorney of record, must be placed at the lower right-hand corner of the sheet within the marginal lines, but in no instance should it encroach upon the drawing.

Act of Feb. 20, 1905, sec. 1.
Act of Feb. 18, 1909, sec. 1.

(5) When the view is longer than the width of the sheet, the sheet should be turned on its side and the heading should be placed at the right and the signature at the left, occupying the same space and position as in an upright view and being horizontal when the sheet is held in an upright position.

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(6) Drawings transmitted to the office should be sent flat, protected by a sheet of heavy binder's board, or should be rolled for transmission in a suitable mailing tube. They should never be folded.

(7) An agent's or attorney's stamp, or advertisement, or written address will not be permitted upon the face of a drawing, within or without the marginal line.

37. The office, at the request of applicants, will furnish the drawings at cost.

EXAMINATION OF APPLICATIONS.

38. All complete applications for registration shall be considered, in the first instance, by the examiner in charge of trade-marks as if filed under the act of February 20, 1905, as amended, unless otherwise specified in the application. Whenever, on examination of an application, registration is refused for any reason whatever, the applicant will be notified thereof The reasons for such refusal will be stated, and such information and references will be given as may be useful in aiding the applicant to judge of the propriety of further prosecuting his application. If the examiner shall find the application unregisterable under the act of 1905, but registerable under the act of 1920, he shall so advise the applicant; and the applicant shall then notify the office whether he will prosecute such application under the 1905 act, or will accept registration under the 1920 act. Such notification shall be entered on the file and further proceedings governed accordingly.

Act of Feb. 20, 1905, sec. 6.

39. The examination of an application and the actions thereon will be directed throughout to the merits, and in each letter the examiner shall state or refer to all his objections.

40. If, on examination of an application for the registration of a trade-mark under the act of February 20, 1905, as amended, it shall appear that the applicant is entitled to have his trade-mark registered under the provisions of that law, the mark will be published in the Official Gazette at least once. Such publication shall be at least thirty days prior to the date of passing the application to registration.

Act of Feb. 20, 1905, sec. 6.

If no notice of opposition be filed within thirty days after such publication, the applicant or his attorney will be duly notified of the allowance of his application, and a certificate of registration will be issued as provided in rule 58. Marks registered under section 1 (*b*) of the act approved March 19, 1920, may be published when registered.

The weekly issue closes on Thursday, and the certificates of registration of that issue bear date as of the fourth Tuesday thereafter.

AMENDMENTS.

41. The statement may be amended to correct informalities, or to avoid objections made by the office, or for other reasons arising in the course of examination, but no amendments to the description or drawing of the trade-mark will be permitted unless warranted by something in the specimens (*or facsimiles*) as originally filed.

42. In every amendment the exact word or words to be stricken out or inserted in the statement must be specified and the precise

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point indicated where the erasure or insertion is to be made. All such amendments must be on sheets of paper separate from the papers previously filed, and written on but one side of the paper.

Erasures, additions, insertions, or mutilations of the papers and records must not be made by the applicant or attorney.

43. When an amendatory clause is amended, it must be wholly rewritten, so that no interlineation or erasure shall appear in the clause, as finally amended, when the application is passed to issue. If the number or nature of the amendments shall render it otherwise difficult to consider the case, or to arrange the papers for printing or copying, the examiner may require the entire statement to be rewritten.

44. After allowance, the examiner will exercise jurisdiction over an application only by special authority from the commissioner.

Amendments may be made after the allowance of an application, if the case has not been printed, on the recommendation of the examiner, approved by the commissioner, without withdrawing the case from issue.

45. After the completion of the application, the office will not return the papers for any purpose whatever. If the applicant has not preserved copies of the papers which he wishes to amend, the office will furnish them on the usual terms.

45a. If an applicant fail to prosecute his application within one year prior to November 1, 1911, or for one year after the date when the last official notice of any action by the office was mailed to him, the application will be held to be abandoned, as set forth in rule 57a.

45b. Whenever action upon an application is suspended upon request of an applicant and whenever an applicant has been called upon to put his application in condition for interference, the period of one year running against such application shall be considered as beginning at the date of the last official action preceding such actions.

45c. Acknowledgment of the filing of an application is an official action. Suspensions will only be granted for good and sufficient cause and for a reasonable time specified.

45d. Only one suspension will be granted by the examiner of trade-marks. Any further suspension must be approved by the commissioner.

INTERFERENCE, OPPOSITION, AND CANCELLATION.

46. Whenever application is made for the registration of a trade-mark which is substantially identical with a trade-mark appropriated to goods of the same descriptive properties, for which a certificate of registration has been previously issued to another, or for registration of which another had previously made application, or which so nearly resembles such trade-mark, or a known trade-mark owned and used by another as, in the opinion of the commissioner, to be likely to be mistaken therefor by the public, an interference will be declared.

The practice in trade-mark interferences will follow, as nearly as practicable, the practice in interferences between applications for patents.

47. Before the declaration of interference, all preliminary questions must have been settled by the examiner in charge of trade-marks, and the trade-mark which is to form the subject matter of the controversy must have been decided to be registrable, and must have

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been published at least once in the Official Gazette of the Patent Office.

Whenever two or more applicants are found to be claiming substantially the same registrable trade-mark, and the application of one of the applicants is ready for publication, or allowance, the examiner in charge of trade-marks may require the other applicants to put their applications in condition for publication or allowance, within a time specified, in order that an interference may be declared. If any party fail to put his application in condition for publication or allowance within the time specified, the declaration of interference will not be delayed, but after final judgment the application of such party will be held for revision and restriction, subject to interference with other applications or registered trade-marks.

48. The examiner in charge of interferences may, either before or in his final decision in an interference or opposition, direct the attention of the commissioner to any matter which may have come to his notice which can not be acted upon by him, which in his opinion precludes a proper determination of questions raised by the proceeding, or which amounts to a statutory bar to registration of the mark to any or all of the parties. The commissioner may, before judgment, suspend the interference or opposition and remand the same to the examiner in charge of trade-marks for his consideration of the matters to which attention has been directed. If the case be not so remanded, the examiner in charge of trade-marks will, after judgment, consider any matter affecting right to registration which may have been brought to his attention, unless the same shall have been previously disposed of in the proceeding. From the decision of the examiner in charge of trade-marks appeals may be taken as in other cases.

49. Motions to dissolve an interference upon the ground that no interference in fact exists, or that there has been such irregularity in declaring the same as will preclude a proper determination of the question of the right of registration, or which deny the registrability of an applicant's mark, should contain a full statement of the grounds relied upon, and should, if possible, be made not later than the thirtieth day after the notices of the interference have been mailed. Such motions and all motions of a similar character, if in the opinion of the commissioner they be in proper form, will be heard and determined by the examiner of trade-marks, due notice of the day of hearing being given by the office to all parties. If in the opinion of the commissioner the motion be not in proper form, or if it be not brought within the time specified and no satisfactory reason be given for the delay, it will not be considered and the parties will be so notified. Setting a motion for hearing by the examiner of trade-marks will act as a stay of proceedings pending the determination of the motion.

When the motion has been decided by the examiner in charge of trade-marks, the files and papers, with his decision, will be sent at once to the docket clerk.

Motions to shift the burden of proof should be made before, and will be determined by, the examiner in charge of interferences. No appeal from the decision on such motion will be entertained, but the matter may be reviewed on appeal from the final decision upon the question of priority.

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50. The decision of the examiner in charge of trade-marks, upon a motion for dissolution, will be binding upon the examiner in charge of interferences unless reversed or modified on appeal. Unless appeal be taken within the time limited for appeal, the examiner in charge of trade-marks will return the files and papers with his decision to the examiner in charge of interferences.

51. Any person who believes he would be damaged by the registration of a mark applied for under the act of February 20, 1905, as amended, may oppose the same by filing a written notice of opposition stating the grounds therefor, within 30 days after the publication of the mark sought to be registered, which notice of opposition shall be accompanied by the fee required by law and shall be verified by the person filing the same before one of the officers mentioned in section 2 of the act of February 20, 1905. An opposition may be filed by a duly authorized attorney, but such opposition shall be null and void unless duly verified by the opposer, within a reasonable time after such filing. A duplicate copy of the notice of opposition must be filed, either with the notice of opposition or within a reasonable time after the filing of the same.

Act of Feb. 20, 1905, secs. 6 and 14. Act of Mar. 2, 1907, sec. 2.

52. Any person, deeming himself to be injured by the registration of a trade-mark in the Patent Office, may, at any time, make application (see Form 13) to the commissioner to cancel the registration thereof. Such application shall be filed in duplicate, shall state the grounds for cancellation, and shall be verified by the person filing the same, before one of the officers mentioned in section 2 of the act of February 20, 1905. (See rule 34.)

Act of Feb. 20, 1905, sec. 13. Act of Mar. 19, 1920.

53. If it shall appear, after a hearing before the examiner of interferences, that the registrant was not entitled to the use of the mark at the date of his application for registration thereof, or that the mark is not used by the registrant, or has been abandoned, and the examiner in charge of interferences shall so decide, the commissioner shall cancel the registration of the mark, unless appeal be taken within the limit fixed.

Act of Feb. 20, 1905, sec. 13.

54. In cases of opposition, and of applications for cancellation, the examiner in charge of trade-marks shall forward the files and papers to the examiner in charge of interferences, who shall give notice thereof to the applicant or registrant. The applicant or registrant must make answer at such time, not less than 30 days from the date of the notice, as shall be fixed by the examiner in charge of interferences.

55. The proceedings, on oppositions, and on applications for cancellation, shall follow, as nearly as practicable, the practice in interferences between applications for patents.

APPEALS AND PETITIONS.

56. Every applicant under the act of February 20, 1905, as amended, whose mark has been twice refused registration by the examiner of trade-marks for the same reasons, upon grounds involving the merits of the application, may appeal to the commissioner in person upon payment of the fee required by law. Such refusal may be considered by the examiner of trade-marks as final.

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There must have been two refusals to register the mark as originally filed, or, if amended in matter of substance, the amended mark; and, except in cases of division, all preliminary and intermediate questions relating to matters not affecting the merits of the application must have been settled before the case can be appealed to the commissioner.

56a. Upon receiving a petition stating concisely and clearly any proper question which has been acted upon by the examiner in charge of trade-marks which does not involve the merits of a trade-mark claimed under the act of February 20, 1905, as amended, the refusal of registration of such trade-mark, or a requirement for division, and also stating the facts involved and the point or points to be reviewed, an order will be made fixing a time for hearing such petition by the commissioner, and directing the examiner to furnish a written statement of the grounds of his decision upon the matters averred in such petition within five days after being notified of the order fixing the day of hearing. The examiner shall, at the time of making such statement, furnish a copy thereof to the petitioner. No fee is required for such a petition.

56b. Petition may be taken to the commissioner from a refusal by the examiner of trade-marks to register a mark under section 1 of the act of March 19, 1920, without a fee.

57. From the adverse decision of the Commissioner of Patents upon the right of an applicant to register a trade-mark, under the act of February 20, 1905, as amended, or from the decision of the commissioner in cases of interference, opposition, or cancellation of such a mark, an appeal may be taken to the court of appeals of the District of Columbia in the manner prescribed by the rules of that court.

Act of Feb. 20, 1905, sec. 9.

ABANDONED APPLICATIONS.

57a. An abandoned trade-mark application is one applied for under the act of February 20, 1905, as amended, or section 1 (*b*) of the act of March 19, 1920, and which has not been completed and prepared for examination within one year after the filing of the petition, or which the applicant has failed to prosecute within one year after any action therein of which notice has been duly given or which the applicant has expressly abandoned by filing in the office a written declaration of abandonment, signed by himself and assignee, if any, identifying his application by serial number and date of filing.

57b. Prosecution of an application to save it from abandonment must include such proper action as the condition of the case may require. The admission of an amendment not responsive to the last official action, or refusal to admit the same, and any proceedings relative thereto, shall not operate to save the application from abandonment.

57c. Before an application abandoned by failure to complete or prosecute can be revived as a pending application it must be shown to the satisfaction of the commissioner that the delay in the prosecution of the same was unavoidable.

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57d. When a new application is filed in place of an abandoned or rejected application, a new petition, statement, declaration, drawing, and fee will be required.

ISSUE, DATE, AND DURATION OF CERTIFICATES.

58. When the requirements of the law and of the rules have been complied with, and the office has adjudged a trade-mark registrable under the act of February 20, 1905, as amended, and section 1 (*b*) of the act of March 19, 1920, a certificate will be issued, signed by the commissioner, under the seal of the Patent Office, to the effect that the applicant has complied with the law and that he is entitled to registration of his trade-mark. The certificate shall state the date on which the application for registration was received in the Patent Office and the act under which the mark is registered. Attached to the certificate will be a photolithographed copy of the drawing of the trade-mark and a printed copy of the statement and of the declaration.

Act of Feb. 20, 1905, sec. 11. Act of Mar. 19, 1920, sec. 1 (*b*)

59. A certificate of registration under the act of February 20, 1905, as amended, shall remain in force 20 years from its date, except that, in case a trade-mark be previously registered in a foreign country, such certificate shall cease to be in force on the day on which the trade-mark ceases to be protected in such foreign country, and shall in no case remain in force more than 20 years unless renewed.

Act of Feb. 20, 1905, sec. 12.

60. A certificate of registration under the act of February 20, 1905, as amended, may be, from time to time, renewed for like periods on payment of the renewal fees required, upon request by the registrant, his legal representatives, or transferees of record in the Patent Office, and such request may be made at any time not more than six months prior to the expiration of the period for which the certificate of registration was issued or renewed.

Act of Feb. 20, 1905, secs. 12 and 14.

61. Certificates of registration in force on the 1st day of April, 1905, shall remain in force for the periods for which they were issued; and shall be renewable on the same conditions and for the same periods as certificates issued under the provisions of the act of February 20, 1905, and, when so renewed, shall have the same force and effect as certificates issued under the act of February 20, 1905.

Act of Feb. 20, 1905, sec. 12.

62. A certificate of registration under the act of February 20, 1905, as amended, shall not be issued to an applicant located in a foreign country for any trade-mark, for registration of which he has filed an application in such foreign country, until such mark has been actually registered by him in the country in which he is located.

Act of Feb. 20, 1905, sec. 4.

ASSIGNMENTS.

63. Every registered trade-mark and every mark for the registration of which application has been made, together with the application for registration thereof, shall be assignable in connection with the good will of the business in which the mark is used. Such assignment must be by an instrument in writing and duly acknowledged according to the laws of the country or State in which the same is executed. Provision is

Act of Feb. 20, 1905, sec. 10.

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made for recording such assignments in the Patent Office; but no such assignment will be recorded unless it is in the English language, nor unless an application for the registration of the mark shall have been first filed in the Patent Office, and such assignment must identify the application by serial number and date of filing, or, when the mark has been registered, by the certificate number and the date thereof. No particular form of assignment is prescribed.

64. An assignment shall be void as against any subsequent purchaser for a valuable consideration, without notice, unless it be recorded in the Patent Office within three months from the date thereof.

Act of Feb. 20, 1905, sec. 10.

65. The certificate of registration may be issued to the assignee of the applicant, but the assignment must first be entered of record in the Patent Office.

Act of Feb. 20, 1905, sec. 11.

COPIES AND PUBLICATIONS.

66. After a trade-mark has been registered, printed copies of the statement and declaration in each case, with a photo-lithographed copy of the drawing of the trade-mark, may be furnished by the office upon the payment of the fee. (See rule 69.)

Act of Feb. 20, 1905, secs. 11 and 14.

67. An order for a copy of an assignment must give the liber and page of the record, as well as the name of the applicant; otherwise an extra charge will be made for the time consumed in making a search for such assignment.

68. The Official Gazette of the Patent Office will contain a list of all trade-marks registered, giving in each case a statement of the goods to which the trade-mark is applied, the name and address of the applicant, the date of filing and serial number of the application, and when published (see rule 40), the date of the publication of the trade-mark in the Official Gazette.

FEES.

69.

On filing each original application for registration of a trade-mark	$10.00
On filing each application for renewal of the registration of a trade-mark	10.00
On filing notice of opposition to the registration of a trade-mark	10.00
On appeal from the examiner in charge of trade-marks to the Commissioner of Patents	15.00
On appeal from the decision of the examiner in charge of interferences, awarding ownership of a trade-mark or canceling the registration of a trade-mark, to the Commissioner of Patents	15.00
On appeal from the decision of the examiner in charge of trade-marks, on a motion for the dissolution of an interference on the ground of noninterference in fact or nonregistrability of a mark, to the Commissioner of Patents	15.00
For manuscript copies, for every 100 words or fraction thereof	.10
For recording every assignment, power of attorney, or other paper of 300 words or under	1.00
Of over 300 and under 1,000 words	2.00
And for each additional thousand words or fraction thereof	1.00
For abstracts of title:	
For the search, one hour or less, and certificate	1.00
Each additional hour or fraction thereof	.50
For each brief from the digest of assignments of 200 words or less	.20
Each additional hundred words or fraction thereof	.10
For searching titles or records, one hour or less	.50
Each additional hour or fraction thereof	.50
For a single printed copy of statement, declaration, and drawing	.10
If certified, for the grant, additional	.50
For the certificate	.25

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70. All payments of money required for office fees must be made in specie, Treasury notes, national-bank notes, post-office money orders, bank drafts, or certified checks. Money orders and checks should be made payable to the "Commissioner of Patents."

Rev. Stat., 4935.

71. Money sent by mail to the Patent Office will be at the risk of the sender. Letters containing money should be registered.

REPAYMENT OF MONEY.

72. Money paid by actual mistake, such as a payment in excess or when not required by law, or by neglect or misinformation on the part of the office, will be refunded; but a mere change of purpose after the payment of money, as when a party desires to withdraw his application for the registration of a trade-mark, or to withdraw an appeal, will not entitle a party to demand such a return.

Rev. Stat., 4936; act of Feb. 20, 1905, sec. 15.

NOTICE OF REGISTRATION.

73. It shall be the duty of the registrant under the act of February 20, 1905, as amended, and under section 1 (*b*) of the act of March 19, 1920, to give notice to the public that a trade-mark is registered, either by affixing thereon the words "Registered in U. S. Patent Office," or "Reg. U. S. Pat. Off.," or, when from the character and size of the trade-mark, or from its manner of attachment to the article to which it is appropriated, this can not be done, then by affixing a label containing a like notice to the package or receptacle wherein the article or articles are inclosed; otherwise, on a suit for infringement, no damages shall be recovered except on proof that the defendant was duly notified of infringement, and continued the same after such notice.

Act of Feb. 20, 1905, sec. 28.

AMENDMENTS OF THE RULES.

74. All amendments of the foregoing rules will be published in the Official Gazette.

QUESTIONS NOT SPECIFICALLY PROVIDED FOR.

75. All cases not specifically defined and provided for in these rules will be decided in accordance with the merits of each case under the authority of the commissioner, and such decision will be communicated to the interested parties in writing.

JAMES T. NEWTON,
Commissioner of Patents.

The foregoing rules were approved July 19, 1920, by the Assistant Secretary of the Interior, to be effective July 26, 1920.

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RECORDING TRADE-MARKS WITH COLLECTORS OF CUSTOMS.

TREASURY DEPARTMENT, *September 7, 1909.*

To collectors of customs and others concerned:

The attention of officers of the customs and others is invited to the following provisions of section 27 of the act approved February 20, 1905, effective April 1, 1905:

SEC. 27. That no article of imported merchandise which shall copy or simulate the name of any domestic manufacture, or manufacturer or trader, or of any manufacturer or trader located in any foreign country which, by treaty, convention, or law affords similar privileges to citizens of the United States, or which shall copy or simulate a trade-mark registered in accordance with the provisions of this act, or shall bear a name or mark calculated to induce the public to believe that the article is manufactured in the United States, or that it is manufactured in any foreign country or locality other than the country or locality in which it is in fact manufactured, shall be admitted to entry at any customhouse of the United States; and, in order to aid the officers of the customs in enforcing this prohibition, any domestic manufacturer or trader, and any foreign manufacturer or trader, who is entitled under the provision of a treaty, convention, declaration, or agreement between the United States and any foreign country to the advantages afforded by law to citizens of the United States in respect to trade-marks and commercial names, may require his name and residence, and the name of the locality in which his goods are manufactured, and a copy of the certificate of registration of his trade-mark, issued in accordance with the provisions of this act, to be recorded in books which shall be kept for this purpose in the Department of the Treasury, under such regulations as the Secretary of the Treasury shall prescribe, and may furnish to the department facsimiles of his name, the name of the locality in which his goods are manufactured, or of his registered trade-mark; and thereupon the Secretary of the Treasury shall cause one or more copies of the same to be transmitted to each collector or other proper officer of customs.

The provisions of this section give to manufacturers and traders located in foreign countries, which, by treaty stipulations, give similar privileges to the United States, the same advantages as are given to domestic manufacturers and traders. The act does not affect names or trade-marks heretofore recorded in the Treasury Department, and as to them the protection granted so far as concerns prohibition of importation will continue. Nor does the act appear to make it compulsory on the part of domestic manufacturers or traders, or foreign manufacturers or traders, to register names (not trade-marks) with the Commissioner of Patents, in order to prevent illegal importations.

Domestic manufacturers and traders and foreign manufacturers and traders, to avail themselves of the privileges of the act so far as concerns trade-marks, are required to register their trade-marks with the Commissioner of Patents before the Treasury Department can act.

Applications for recording the names and trade-marks in this department under section 27 will state the name of the owner, his residence, and the locality in which his goods are manufactured, and in the case of trade-marks should be accompanied with a certified copy of the certificate of registration of his trade-mark issued in accordance with the provisions of the act and the names of the ports to which facsimiles should be sent. In the case of the name of a domestic manufacture, manufacturer, or trader (not registered as a trade-mark in the Patent Office), the application must be accompanied by the proper proof of ownership and proof as to the country or locality in which his goods are manufactured, which must consist of the affidavit of the owner or one of the owners, certified by an officer entitled to administer oaths and having a seal.

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On the receipt by a customs officer of any such facsimiles, with information from the department that they have been recorded therein, he will properly record and file them and will exercise care to prevent the entry at the customhouse of any article of foreign manufacture copying or simulating such mark.

No fees are charged for recording trade-marks in the Treasury Department and customhouses.

A sufficient number of facsimiles should be forwarded to enable the department to send one copy to each port named in the application, with ten additional copies for the files of the department.

Especial attention is invited to the provision in said section prohibiting the entry of articles "which shall bear a name or mark calculated to induce the public to believe that the article is manufactured in the United States, or that it is manufactured in any foreign country or locality other than the country or locality in which it is in fact manufactured," and collectors and other officers of the customs are instructed to use due diligence to prevent violations of this provision.

The provisions of the act also apply to Porto Rico, the Philippine Islands, Hawaii, and any other territory under the jurisdiction and control of the United States.

Attention is also invited to the following provisions of section 3 of the act approved May 4, 1906, effective July 1, 1906:

SEC. 3. That any owner of a trade-mark who shall have a manufacturing establishment within the territory of the United States shall be accorded, so far as the registration and protection of trade-marks used on the products of such establishment are concerned, the same rights and privileges that are accorded to owners of trade-marks domiciled within the territory of the United States by the act entitled "An act to authorize the registration of trade-marks used in commerce with foreign nations or among the several States or with Indian tribes, and to protect the same," approved February 20, 1905.

This department has ruled that affidavits accompanying applications for recording the names of foreign manufactures, manufacturers, or traders (not registered as trade-marks in the Patent Office) may be certified by American consular officers.

JAMES B. REYNOLDS,
Acting Secretary.

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FORMS.

The following forms illustrate the manner of preparing papers for applications for registration of trade-marks. Applicants will find their business facilitated by following them.

(1) PETITION.

To the Commissioner of Patents:

The undersigned presents herewith a drawing and five *specimens* (Or facsimiles.) of his trade-mark, and requests that the same, together with the accompanying statement and declaration, may be registered in the United States Patent Office in accordance with the (*act of February 20, 1905, as amended*) or (*act of March 19, 1920, sec. 1*).[1]

JOHN DOE.
(Signature of applicant.)

Dated *June 15, 1906.*
(Date of execution.)

(1a) PETITION WITH POWER OF ATTORNEY.

(Under the act of February 20, 1905.)

To the Commissioner of Patents:

The undersigned presents herewith a drawing and five *specimens* (Facsimiles.) of its trade-mark, and requests that the same, together with the accompanying statement and declaration, may be registered in the United States Patent Office in accordance with the law in such cases made and provided, and hereby appoints ....., of ....., State of ....., his attorney, to prosecute this application for registration, with full power of substitution and revocation, to make alterations and amendments therein, to receive the certificate and to transact all business in the Patent Office connected therewith.

(Signed) .....

(1b) PETITION WITH POWER OF ATTORNEY.

(Under the act of March 19, 1920.)

To the Commissioner of Patents:

The undersigned presents herewith a drawing and five *specimens* (Facsimiles.) of its trade-mark, and requests that the same, together with the accompanying statement and declaration, may be registered in the United States Patent Office in accordance with the provisions of the act of March 19, 1920, and hereby appoints ....., of ....., State of ....., his attorney, to prosecute this application for registration, with full power of substitution and revocation, to make alterations and amendments therein, to receive the certificate and to transact all business in the Patent Office connected therewith.

(Signed) .....

(Cancel one of these clauses.)

[1] Indicate act under which registration is desired.

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(1c) POWER OF ATTORNEY.

To the Commissioner of Patents:

The undersigned hereby appoints ....., of ....., State of ....., his attorney, to prosecute this application for registration, with full power of substitution and revocation, to make alterations and amendments therein, to receive the certificate and to transact all business in the Patent Office connected therewith.

(Signed) .....

(2) STATEMENT FOR AN INDIVIDUAL.

To all whom it may concern:

Be it known that I, *John Doe, a citizen of the United States of America*, residing at *Philadelphia, county of Philadelphia, State of Pennsylvania*, and doing business at *No. 1300 Chestnut Street, in said city*, have adopted and used the trade-mark shown in the accompanying drawing [2] for *canned fruits and vegetables*, in class No. *46, Foods and ingredients of foods.*

(Name of applicant.) (Citizenship of applicant.) (Applicant's address.) (Business address.) (Particular description of goods.) (Number and title of class—see classification.)

The trade-mark has been continuously used in my business (*and in the business of my predecessor, Richard Roe*,[3]) since *February 1, 1899.*

(Name of predecessor, if any.) (Earliest date of use.)

The trade-mark is applied or affixed to the goods, or to the packages containing the same, by *placing thereon a printed label on which the trade-mark is shown.*

(Or State other mode or modes of application.)

JOHN DOE.
(Signature of applicant.)
(First name must be given in full.)

(3) DECLARATION FOR AN INDIVIDUAL.

State of *Pennsylvania*, } ss:
County of *Philadelphia*, }

John Doe, being duly sworn, deposes and says that he is the applicant named in the foregoing statement; that he believes the foregoing statement is true; that he believes himself to be the owner of the trade-mark sought to be registered; that no other person, firm, corporation, or association, to the best of his knowledge and belief, has the right to use said trade-mark in the United States, either in the identical form or in any such near resemblance thereto as might be calculated to deceive; that said trade-mark is used by him in commerce among the several States of the United States (and between the United States and foreign nations or Indian tribes, and particularly with *England and Germany*;[4] that the description and drawing presented truly represent the trade-mark sought to be registered; and that the *specimens* show the trade-mark as actually used upon the goods.

(Name of applicant.) (Names of foreign countries or Indian tribes.) (Or facsimilies.)

JOHN DOE.
(Signature of applicant.)

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[2] See rule 22 (*b*). If applicant has had no predecessors, omit this clause.

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Subscribed and sworn to before me, a *notary public*, this *15th* day
(Official title.) (Date of
of *June, 1906.*
execution.)

[L. S.] RICHARD JONES,
Notary Public.
(Official title.)

(3a) DECLARATION FOR INDIVIDUAL UNDER SECTION 1 OF THE ACT APPROVED MARCH 19, 1920.

State of *Connecticut*, }
County of *Fairfield.* } *ss:*

Richard Roe, being duly sworn, deposes and says that he is the applicant named in the foregoing statement; that he believes the foregoing statement is true; that he believes himself to be the owner of the mark sought to be registered; that no other person, firm, corporation, or association, to the best of his knowledge and belief, has the right to use said mark in the United States of America, on merchandise of the same descriptive properties as those recited in the foregoing statement; that said mark is used by him in commerce among the several States of the United States (and between the United States and foreign nations, or Indian tribes, and particularly with Russia and Turkey); that the description and drawing presented truly represent the mark sought to be registered; that the specimens show the mark as actually used upon the goods; and that the mark has been in *bona fide* use for not less than one year in interstate or (and) foreign commerce (or in commerce with the Indian tribes) by the applicant or his predecessors in business.

RICHARD ROE.

Subscribed and sworn to before me, a notary public, this 15th day of May, 1920.

JOHN SMITH,
Notary Public.

(4) STATEMENT FOR A FIRM.

To all whom it may concern:

Be it known that we, *John Doe & Co.*, a firm domiciled in *New*
(Firm name.)
York, County of New York, State of New York, doing business at
(Domicile.)
No. 36 Fulton Street, in said city, and composed of the following
(Business address.)
members, *John Doe, Richard Roe, and Henry Poe, citizens of the*
(Name of members of the firm.) (Citizenship of
United States of America, have adopted and used the trade-mark
members of the firm.)
shown in the accompanying drawing [2] for *surgical bandages*, in class
(Particular description of goods.)
No. *44, Dental, medical, and surgical appliances.*
(Number and title of class. See classification.)

The trade-mark has been continuously used in our business (*and in the business of our predecessors, Doe & Roe,*[3]) since *January 1 1902.*
(Name of predecessors, if any.) (Earliest date of use.)

---

[2] See rule 22 (*b*).
[3] If applicant has had no predecessors, omit this clause.

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The trade-mark is applied or affixed to the goods, or to the packages containing the same, by *placing thereon a printed label on which the trade-mark is shown.* (Or state other mode or modes of application.)

JOHN DOE & Co.,
(Firm name.)
By RICHARD ROE,
(Signature of a member of the firm.)
A Member of the Firm.

(5) DECLARATION FOR A FIRM.

State of *New York*,
County of *New York*. } *ss:*

Richard Roe, (Name of affiant.) being duly sworn, deposes and says that he is a member of the firm, the applicant named in the foregoing statement; that he believes the foregoing statement is true; that he believes said firm is the owner of the trade-mark sought to be registered; that no other person, firm, corporation, or association, to the best of his knowledge and belief, has the right to use said trade-mark in the United States, either in the identical form or in any such near resemblance thereto as might be calculated to deceive; that said trade-mark is used by said firm in commerce among the several States of the United States (and between the United States and foreign nations or Indian tribes, and particularly with *France and Spain* [4]); that the description and drawing presented truly represent the trade-mark sought to be registered; and that the *specimens* show the trade-mark as actually used upon the goods. (Name of foreign countries or Indian tribes.) (Or facsimiles.)

RICHARD ROE.
(Signature of affiant.)

Subscribed and sworn to before me, a *notary public*, (Official title.) this *15th* day of *January, 1906*. (Date of execution.)

[L. S.]

HARRY BROWN,
Notary Public.
(Official title.)

(6) STATEMENT FOR A CORPORATION OR ASSOCIATION.

To all whom it may concern:

Be it known that *Union Manufacturing Co.*, (Name of applicant.) a *corporation* [2] duly organized under the laws of *the State of Maine*, (State or country under the laws of which organized.) and located in *the city of Brunswick, county of Cumberland, in said State*, (Location of corporation.) and doing business at *No. 326 Atlantic Avenue, in the city of Boston, State of Massachusetts*, (Business address.) has adopted and used the trade-mark shown in the accompanying drawing,[3] for *arc and incandescent electric lamps and electric heaters*, (Particular description of goods.) in Class No. *21*, *Electrical apparatus, machines, and supplies.* (Number and title of class. See classification.)

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[2] See rule 22 (b).
[3] If applicant has had no predecessors, omit this clause.
[4] If applicant does not have commerce with foreign nations or Indian tribes, this clause should be omitted.

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The trade-mark has been continuously used in the business of said *corporation*[5] (*and in the business of its predecessors, John Doe Company*[3]) since *January 30, 1898.*
(Name of predecessors, if any.) (Give earliest date of use.)

The trade-mark is applied or affixed to the goods, or to the packages containing the same, by *placing thereon a printed label on which the trade-mark is shown.* (Or state other mode or modes of application.)

UNION MANUFACTURING CO.,
(Name of applicant.)
By JOHN DOE, *Secretary.*
(Signature of officer.) (Official title.)

(7) DECLARATION FOR A CORPORATION OR ASSOCIATION.

State of *Massachusetts*,
County of *Suffolk*, } *ss:*

John Doe, being duly sworn, deposes and says that he is the (Name of affiant.) *secretary* of the *corporation*,[5] the applicant named in the foregoing (Official title.) statement; that he believes the foregoing statement is true; that he believes said *corporation*[5] is the owner of the trade-mark sought to be registered; that no other person, firm, corporation, or association, to the best of his knowledge and belief, has the right to use said trade-mark in the United States, either in the identical form or in any such near resemblance thereto as might be calculated to deceive; that said trade-mark is used by said *corporation*[5] in commerce among the several States of the United States (and between the United States and foreign nations or Indian tribes and particularly with *Italy and France*[4]); that the description and drawing presented (Names of foreign nations or Indian tribes.) truly represent the trade-mark sought to be registered; and that the *specimens* show the trade-mark as actually used upon the goods. (Or facsimiles.)

JOHN DOE.
(Signature of affiant.)

Subscribed and sworn to before me, a *notary public*, this *20th* day of *February, 1906.* (Official title.) (Date of execution.)

[L. S.]

WILLIAM GRANE,
Notary Public.
(Official title.)

(8) DECLARATION FOR APPLICANTS UNDER THE 10-YEAR PROVISO, ACT OF FEBRUARY 20, 1905.

State of *Connecticut*,
County of *Fairfield*, } *ss:*

Richard Roe, being duly sworn, deposes and says that he is the (Name of applicant.) applicant named in the foregoing statement; that he believes the foregoing statement is true; that he believes himself to be the owner of the mark sought to be registered; that no other person, firm, corporation, or association, to the best of his knowledge and belief, has

[3] If applicant has had no predecessors, omit this clause.
[4] If the applicant does not have commerce with foreign nations or Indian tribes, this clause should be omitted.
[5] If applicant be an association, the word "association" should be substituted for the word "corporation."

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the right to use said mark in the United States, either in the identical form or in any such near resemblance thereto as might be calculated to deceive; that said mark is used by him in commerce among the several States of the United States (and between the United States and foreign nations, or Indian tribes, and particularly with *Russia and Turkey*); that the description and drawing presented truly
(Names of foreign nations or Indian tribes.)
represent the mark sought to be registered; that the *specimens*
(Or facsimiles.)
show the mark as actually used upon the goods; and that the mark has been in actual use as a trade-mark of the applicant (*and applicant's predecessors from whom title was derived*) for ten years next preceding February 20, 1905, and that, to the best of his knowledge and belief, such use has been exclusive.

RICHARD ROE.
(Signature of affiant.)

Subscribed and sworn to before me, a *notary public*, this *15th* day of *February, 1906*.
(Official title.) (Date of execution.)

[L. S.]

CHARLES MASON,
Notary Public.
(Official title.)

(8a) DECLARATION FOR APPLICANTS UNDER SECTION 9 OF THE ACT APPROVED MARCH 19, 1920.

State of *Connecticut*, }
County of *Fairfield*, } *ss:*

Richard Roe, being duly sworn, deposes and says that he is the applicant in the foregoing statement; that he believes the foregoing statement is true; that he believes himself to be the owner of the mark sought to be registered; that no other person, firm, corporation, or asociation, to the best of his knowledge and belief, has the right to use the said trade-mark in the United States of America on merchandise of the same descriptive properties as those recited in the foregoing statement; that said mark is used by him in commerce among the several States of the United States (and between the United States and foreign nations, or Indian tribes, and particularly with Russia and Turkey); that the description and drawing presented truly represent the mark sought to be registered; that the specimens show the mark as actually used upon the goods; that the applicant is the proprietor of registration No. ——— of ———————, effected on the ground of actual and exclusive use by the applicant of the mark shown therein on the goods recited in said registration as a trade-mark for ten years next preceding February 20, 1905; and that the mark has been used by the applicant (or his predecessors in business) on the articles named in the foregoing statement in interstate (foreign) commerce (commerce with the Indian tribes) for at least one year.

RICHARD ROE.

Subscribed and sworn to before me, a notary public, this 15th day of May, 1920.

[L. S.]

HAROLD BROWN,
Notary Public.

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(9) DECLARATION FOR FOREIGNER.[6]

United States Consulate,
London, England, } *ss:*

John Doe, being duly sworn, deposes and says that he is the appli-
(Name of affiant.)
cant named in the foregoing statement; that he believes the foregoing statement is true; that he believes himself to be the owner of the trade-mark sought to be registered; that no other person, firm, corporation, or association, to the best of his knowledge and belief, has the right to use said trade-mark in the United States, either in the identical form or in any such near resemblance thereto as might be calculated to deceive; (that said trade-mark has been registered in *England, on June 1, 1900, No. 49316;*[7]) that the description and drawing
(Name of country.) (Date.) (Number of registration.)
ing presented truly represent the trade-mark sought to be registered; and that the *specimens* show the trade-mark as actually used upon
(Or facsimiles.)
the goods.

JOHN DOE.
(Signature of affiant.)

Subscribed and sworn to before me, a *United States consul,* this
(Official title.)
20th day of *January, 1906.*
(Date of execution.)

[SEAL.]

RICHARD JONES,
United States Consul.
(Official title.)

(10) STATEMENT FOR AN INDIVIDUAL UNDER SECTION 3 OF THE ACT OF MAY 4, 1906.[6]

To all whom it may concern:

Be it known that I, *Richard Roe,* a *subject of the King of Eng-*
(Name of applicant.) (Citizenship of applicant.)
land, residing at *London, England,* and doing business at *No. 26*
(Applicant's residence.)
Threadneedle Street, in said city, and having a manufacturing estab-
(Business address.)
lishment at *Hartford, State of Connecticut,* have adopted and used the trade-mark shown in the accompanying drawing[2] for the following products of such manufacturing establishment, namely *rubber boots and shoes,* in Class No. *39, Clothing.*
(Particular description of goods.) (Number and title of class. See classification.)

The trade-mark has been continuously used in my business (*and in the business of my predecessor, John W. Brown*[3]) since *January 1,*
(Name of predecessor, if any.) (Earliest date of
1901.
use.)

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[2] See rule 22 (b).
[3] If applicant has had no predecessor, omit this clause.
[6] In case the applicant is a firm, corporation, or association, the declaration should be modified accordingly.
[7] If the trade-mark has not yet been registered, but an application for registration has been filed in the country where applicant resides or is located, this clause should be omitted and the following substituted therefor:
"that an application for registration of said trade-mark was filed by him on the *20th day of January, 1900, in England:*"
(Date of filing.) (Name of country.)

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The trade-mark is applied or affixed to the goods, or to the packages containing the same, *by placing thereon a printed label on which the trade-mark is shown.* (or state other mode or modes of application.)

RICHARD ROE.
(Signature of applicant.

(11) DECLARATION FOR FOREIGNERS UNDER SECTION 3 OF THE ACT OF MAY 4, 1906.[4]

United States Consulate,
London, England, } *ss:*

Richard Roe, (Name of affiant.) being duly sworn, deposes and says that he is the applicant named in the foregoing statement; that he believes the foregoing statement is true; that he believes himself to be the owner of the trade-mark sought to be registered; that no other parson, firm, corporation, or association, to the best of his knowledge and belief, has the right to use said trade-mark in the United States, either in the identical form or in any such near resemblance thereto as might be calculated to deceive; that said trade-mark is used by him in commerce among the several States of the United States (and between the United States and foreign nations or Indian tribes, and particularly with *England and Germany* (Names of foreign countries or Indian tribes.)[4]); that the description and drawing presented truly represent the trade-mark sought to be registered; that the *specimens* (Or facsimiles.) show the trade-mark as actually used upon the goods; that his manufacturing establishment is located at *Hartford,* (Location of manufacturing establishment.) *State of Connecticut;* and that the goods for which the trade-mark is claimed in this application are the products of such establishment.

RICHARD ROE.
(Signature of affiant.)

Subscribed and sworn to before me, a *United States consul,* this *15th* day of *June, 1906.* (Date of execution.)

[SEAL.]

RICHARD JONES,
United States Consul.
(Official title.)

(12) NOTICE OF OPPOSITION.[5]

To the Commissioner of Patents:

In the matter of an application for the registration of a trade-mark for *sewing machines,* (Particular goods.) Serial No. *1906,* (Number and date of application.) filed *April 15, 1906,* by *John Doe,* (Name of applicant.) of *San Francisco, Cal.,* (Location or residence of applicant.) which was published on page *1746,* (Page, volume, number, and date of the Official Gazette.) Vol. *120,* No. *13,* of the Official Gazette of *June 13, 1906,* I, *Richard Roe,* (Name of party opposing.) *residing* at *No. 12 Clarke street, city of Chicago, State of Illinois,* (Residence or location of party opposing.) believe I would be damaged by such registration, and I hereby give notice of my intention to oppose the registration of said trade-mark.

The grounds for opposition are as follows: (Here state the grounds for opposing registration.)

RICHARD ROE.
(Signature of opposing party.)

[4] If applicant does not have commerce with foreign nations or Indian tribes this clause should be omitted.

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State of *Illinois*, }
County of *Cook*, } *ss:*

Richard Roe, being duly sworn (or affirmed), deposes and says that he is the party of that name mentioned in the foregoing notice of opposition, that he has read and signed the same and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters he believes it to be true.

RICHARD ROE.

Subscribed and sworn to (or affirmed) before me this 23d day of June, 1906.

[L. S.]

CHARLES KINGMAN,
Notary Public.
(Official title.)

(13) APPLICATION FOR CANCELLATION OF TRADE-MARK.[a]

To the Commissioner of Patents:

In the matter of trade-mark No. *1898*, registered *May 23, 1906*,
(Number of registration.) (Date of registration.)
by *Richard Roe*, of *the city of Portland, county of Cumberland, State*
(Name of registrant.) (Residence or location of registrant.)
of Maine, I, *John Doe*, residing at *No. 113 Fayette street, in the city*
(Name of party applying for cancellation.) (Residence or location of the
of Baltimore, State of Maryland, deem myself injured by said regis-
party applying for cancellation.)
tration, and I hereby apply for the cancellation thereof.

The grounds for cancellation are as follows:
(Here state the grounds for cancellation.)

JOHN DOE.
(Signature of party applying for cancellation.)

State of *Maryland*, }
City of *Baltimore*, } *ss:*

John Doe, being duly sworn (or affirmed), deposes and says that he is the party of that name mentioned in the foregoing application for cancellation, that he has read and signed the same and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated to be alleged upon information and belief and as to those matters he believes it to be true.

JOHN DOE.

Subscribed and sworn to (or affirmed) before me this 26th day of June, 1906.

[L. S.]

JOHN JONES,
Notary Public.
(Official title.)

(14) PETITION FOR RENEWAL.

To the Commissioner of Patents:

John Doe herewith submits the original certificate of registration No. ———, granted to ——— on ———, and requests that the same be renewed in accordance with the provisions of section 12 of the trade-mark act of February 20, 1905.

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[a] If the opposing party be a firm, corporation, or association, the notice of opposition should be modified accordingly.

[b] If the party applying for cancellation be a firm, corporation, or association, the application for the cancellation should be modified accordingly.

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The said *John Doe* further represents that he is the *registrant*[10] named in said certificate No. ———; that he believes himself to be the owner of the mark set forth therein; and that he has not abandoned the use of said mark.

JOHN DOE.
(Signature of applicant.)

[10] If petitioner is the transferee of record in the Patent Office, the clause "transferee of record in the Patent Office of the registrant" should be substituted for "registrant"; if the legal representative, the clause "legal representative of the registrant" should be substituted for "registrant."

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The size of the sheet must be exactly 10 x 15 inches. See rule 36 (2).

This space must be thirteen inches.

Proprietor.

By.

Attorney.

This space must be eight inches.

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CLASSIFICATION OF MERCHANDISE UNDER THE ACT OF MAY 4, 1906.

1. Raw or partly prepared materials.
2. Receptacles.
3. Baggage, horse equipments, portfolios, and pocketbooks.
4. Abrasive, detergent, and polishing materials.
5. Adhesives.
6. Chemicals, medicines, and pharmaceutical preparations.
7. Cordage.
8. Smokers' articles, not including tobacco products.
9. Explosives, firearms, equipments, and projectiles.
10. Fertilizers.
11. Inks and inking materials.
12. Construction materials.
13. Hardware and plumbing and steam-fitting supplies.
14. Metals and metal castings and forgings.
15. Oils and greases.
16. Paints and painters' materials.
17. Tobacco products.
19. Vehicles, not including engines.
20. Linoleum and oiled cloth.
21. Electrical apparatus, machines, and supplies.
22. Games, toys, and sporting goods.
23. Cutlery, machinery, and tools, and parts thereof.
24. Laundry appliances and machines.
25. Locks and safes.
26. Measuring and scientific appliances.
27. Horological instruments.
28. Jewelry and precious-metal ware.
29. Brooms, brushes, and dusters.
30. Crockery, earthenware, and porcelain.
31. Filters and refrigerators.
32. Furniture and upholstery.
33. Glassware.
34. Heating, lighting, and ventilating apparatus, not including electrical apparatus.
35. Belting, hose, machinery packing, and nonmetallic tires.
36. Musical instruments and supplies.
37. Paper and stationery.
38. Prints and publications.
39. Clothing.
40. Fancy goods, furnishings, and notions.
41. Canes, parasols, and umbrellas.
42. Knitted, netted, and textile fabrics.
43. Thread and yarn.
44. Dental, medical, and surgical appliances.
45. Beverages, nonalcoholic.
46. Foods and ingredients of foods.
47. Wines.
48. Malt extracts and liquors.
49. Distilled alcoholic liquors.
50. Merchandise not otherwise classified.

NOTE.—Class 18 was abolished February 24, 1909.

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